



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,457	12/31/2003	Paul M. Tsou	455770.15022	9830
7590 MARVIN H. KLEINBEG KLEINBERG & LERNER, LLP Suite 1080 2049 Century Park East Los Angeles, CA 90067			EXAMINER STOKES, CANDICE CAPRI	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Responsive Amendment

The amendment filed on 04/20/07 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the elected invention does not require the specifics of the newly presented claims and the previously elected claims were drawn to a system for minimal access soft tissue dilating and retracting and nucleus pulposus excision tools for endoscopic surgery. The newly presented claims are drawn to a system for percutaneous endoscopic spinal surgery, which is a different system than that previously claimed because the new system requires specifics that were not required in the elected invention therefore these claims are directed to a new invention.

Response to Amendment

The declaration under 37 CFR 1.132 filed 08/13/07 is insufficient to overcome the Notice of Non-Responsive Amendment as set forth in the last Office action because: Applicant is swearing behind the definition of the preambles of the claims in question, however it is not the definition of these claims alone that render them different inventions. Furthermore, if the claims have the same meaning and the preambles are mean the same it is unclear why the entire claim was amended.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in

order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Candice C. Stokes whose telephone number is (571) 272-4714. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Candice C. Stokes/
Candice C. Stokes, Examiner

Cris Rodriguez
CRIS RODRIGUEZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700